REMARKS

Claims 1-12, 15-27, and 30-41 were pending. In an Office Action dated September 2, 2009, claim 40 was objected to as being dependent upon a rejected base claim but allowable if rewritten in independent form and claims 1-12, 15-27, 30-39, and 41 were rejected. Applicants have amended claims 1, 17, 35, and 37-39 in this amendment. New claim 42 is added. Claims 1-12, 15-27, and 30-42 are pending upon entry of this amendment. Applicants thank the Examiner for examination of the claims pending in this application and address the Examiner's comments below.

Response to Rejection Under 35 USC § 103

The Examiner rejected claims 1-12, 15, 17-27, 30, and 32-41 under 35 USC § 103(a) as allegedly being unpatentable over Hasink et al. (U.S. Patent Publication No. 2005/0149932) in view of Hellerstein et al. U.S. Patent Publication No. 2004/0221184).

Claim 1 recites:

> receiving, by an application executed by an operating system, a plurality of operating parameters having values describing a plurality of different types of resources of a client device;
> determining a value representing a performance measure of the client device based at least in part on a combination of the plurality of operating parameter values describing the plurality of different types of resources of the client device; and
> assigning the value representing the performance measure to a usage variable; and
> correlating by the application a resource usage level of the application with the usage variable, the correlating comprising the application modifying its own execution based at least in part on a change to the value assigned to the usage variable, **wherein the application modifying its own execution comprises the application turning off an active feature of the application**.

Thus the claimed invention determines a value representing a performance measure of the client device based on a combination of a plurality of operating parameter values describing a plurality of different types of resources of the client device and assigns the value to a usage variable. An

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application executed by an operating system correlates its resource usage level with the usage variable by modifying its own execution based on the change of the usage variable value. The application modifies its own execution by turning off an active feature of the application.

The references Hasink and Hellerstein fail to disclose or suggest the limitation "the application modifying its own execution based at least in part on a change to the value assigned to the usage variable, wherein the application modifying its own execution comprises the application turning off an active feature of the application."

Hasink discloses sharing of resources by different processes, such as background and foreground processes. *See* Hasink Abstract and [0010]. A process is either allowed to access a computer resource during a time period or inhibited from accessing the resource based on the availability of the resource. *See Id*. at [0011-0014]. However, Hasink does not disclose turning off the background process or any feature of an application. The background process may either wait for a resource to become available or continue to execute and use other shared resources that are not currently in use. *See Id*. at [0033]. Therefore, Hasink does not disclose the limitation "the application modifying its own execution … wherein the application modifying its own execution comprises the application turning off an active feature of the application."

Claim 6 recites that correlation comprises the application "adjusting an active feature." In the rejection of claim 6 Examiner cited paragraph [0025] of Hasink that discloses "the index engine can refrain from indexing until it determines that the mass storage device, which stores the data or files to be indexed is not being utilized by a higher priority or foreground process." This portion of Hasink does not disclose "turning off an active feature of the application" since the indexing is merely deferred until the mass storage device is available. Hence, the indexing is not turned off but held from execution until the resource becomes available.

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Hellerstein discloses throttling of production work and non-production work to optimize production. *See* Hellerstein Abstract. As described in Hellerstein paragraph [0004], throttling refers to lowering the rate of progress or resource consumption in the context of work. In various portions, Hellerstein describes throttling as changing the rate of a task being executed. An active feature of an application is distinct from a task with a variable rate of progress. Turning off an active feature of an application modifies the functionality of the application and is distinct from lowering the rate of progress of a task which corresponds to scheduling of the task. Hence, Hellerstein does not disclose turning off an active feature of an application based on a value assigned to a usage variable.

Examiner cited Anderson, II et al. (U.S. Patent No. 5,909,544) in the rejection of claims 16 and 31. Anderson discloses a method for configuring hardware resources such as computers and devices to run tests over a network. However, Anderson does not remedy the deficiencies of Hasink and Hellerstein, as it does not disclose the above limitation of "the application modifying its own execution … wherein the application modifying its own execution comprises the application turning off an active feature of the application."

Therefore the references either in isolation or in combination do not disclose the limitations of independent claim 1 and therefore independent claim 1 is not obvious in view of the cited references. Independent claim 17 has been amended to recite limitations similar to claim 1 and is not obvious for at least the same reasons. Claims 2-12, 15-16, 18-27, and 30-42 variously depend from claims 1 and 17 and are not anticipated for at least the same reasons.

Conclusion

For the above reasons, Applicants respectfully submit that the pending claims, as amended, are not taught by the art of record, and request that the application be passed to issue.

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The Examiner is invited to contact the undersigned by telephone to advance the prosecution of this application.

Respectfully Submitted,
Niniane Wang et al.

Dated: _____January 4, 2010_____   By: _____/ Rajendra B Panwar /_____

Rajendra B Panwar, Reg. No. 63,165
Patent Agent
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Tel.: (650) 335-7107
Fax: (415) 938-5200

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